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Technology Center 2600

In re Application of: :
Tsuyoshi Tomita :
Application No. 09/263,766 :
Filed: March 5, 1999 :
For: **SIGNAL PROCESSING CIRCUIT FOR** :
PREVENTING PSEUDO LOCK OF TIMING :
RECOVERY PLL :

ON PETITION

This is a decision on the Petition filed October 2, 2002 to withdraw the holding of abandonment under MPEP 711.03(c)(II) and pursuant to 37 C.F.R. § 1.181(a).

The Notice of Abandonment was mailed July 12, 2002 for failure to respond in a timely manner to the Non-Final Office action mailed October 16, 2001.

Petitioner alleges that the Office action was not received.

Based on M.P.E.P. § 711.03(c) [*See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)*], in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

- (a) a statement from the practitioner stating that the Office communication was not received by the practitioner at the address of record (at that time);
- (b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

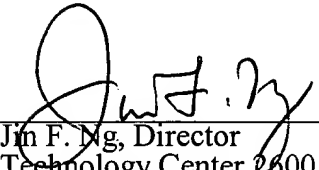
The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner fails to meet requirements (a), (b) and (c) above. The petition does not include a statement that a search of the file jacket and docket records indicates that the Office communication was not received and a copy of the docket record where the non-received Office communication would have been entered had it been received (at the correspondence address of record at that time). A review of the record finds that the non-final Office action mailed October 16, 2001 was mailed to the correct correspondence address of record *at that time*.

For the above stated reasons, the petition is **DENIED**.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. No further petition fee is required for the request. Extensions of time under 37 C.F.R. 1.136(a) are **NOT** permitted. The reconsideration request should include a cover letter entitled A Renewed Petition To Withdraw the Holding of Abandonment. This is **not** final agency action within the meaning of 5 U.S.C. 704.

The application file is being forwarded to the file repository.



Jim F. Ng, Director
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Communications